

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
August 23, 2007
1:30 p.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, August 23, 2007 in Nashville, Tennessee at 1:30 p.m. Chairman John Jones, Commissioner Cynthia Bond and Commissioner Harlan Mathews were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, SA Debra Warren, SA Amy Farmer were present.

1. Minutes for July 26, 2007 Commission Meeting were approved.

2. RETAIL PACKAGE STORES

OLD BUSINESS

**A. BERNIE'S C & S LIQUOR STORE
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Licensee/Seller: Walter Murphy
Applicant/Buyer: Bernadette Murphy**

Before the Commission is a request for a transfer ownership of the retail store located at 2211 Chelsea in Memphis, Tennessee. Ms. Bernadette Murphy wishes to purchase the business from her father, Walter Murphy, for \$1000.00. Ms. Murphy is leasing the property from the Estate of Nathan Friedman for \$900 per month for a period of three years. **Issue:** In March, 2006, Ms. Murphy pled guilty to selling alcohol to a minor. T.C.A §57-3-210(d) prohibits any person who has been convicted of any offense involving the sale, possession, transportation, storing, manufacturing or otherwise handling intoxicating liquors from holding a retail license. All documentation has been submitted with the exception of the following:

- a. Payment of outstanding citations.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that this matter was continued from the June & July meetings because Ms. Bernadette Murphy pled guilty to selling alcohol to a minor, therefore, she cannot own a retail package store. Director Elks stated that Ms. Murphy is contemplating withdrawing the application. Therefore, Director Elks requested that the application be taken off the agenda and no action is required.

**B. JOY LIQUOR AND WINE
SPRING HILL, TENNESSEE (MAURY COUNTY)**

Applicant: Bhavani Matay, Inc.
Stockholder: Kunjanben Patel

Before the Commission is a request for a package store to be located at 4935 Columbia Pike, Suite 3, in Spring Hill, Tennessee. Ms. Patel intends to initially invest \$50,000 to operate the business. Financing is based upon personal funds. The corporation is leasing the property from Newco-Spring Hill, LLC through an assignment from Riya, Inc. for \$3166.67/month for three years. Issue: A bill of sale exists for the business from Riya, Inc. Riya, Inc. is a retail licensee in Columbia. An investigation is on-going to determine the relationship—if any. All documentation has been submitted with the exception of the following:

- a. Verification of the source of the initial investment;
- b. Interest of Riya, Inc.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that the application has been pending for two months. Director Elks stated that the application was issues with the newspaper notice and the Certificate of Compliance. There were also issues regarding some of the specific numbers located in the financial documentation; therefore, it was delayed a month. Director Elks stated that when some of the issues were corrected, there were other issues that appeared when a complete review of the application was made. Director Elks stated that she still has concerns about the application did not recommend approval and asked for continuance in order to complete the investigation. Commissioner Mathews made a motion to continue the matter to the August Commission meeting. Commissioner Bond seconded the motion and it passed with 3 ayes.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that an area was annexed into Spring Hill, which created another address and therefore, the Bill of Sale was correct. Director Elks stated that the staff is still requesting verification of the source of the initial investment. Director Elks stated that she recommended approval upon receipt of the verification of the source of the initial investment. Commissioner Mathews made a motion to approve upon submission of the verification of the source of the initial investment. Commissioner Bond seconded the motion and it passed with 3 ayes.

NEW BUSINESS

**A. ISLAND POINT WINE AND SPIRITS
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Seller/Licensee: Island Point Wine and Spirits, Inc.
Stockholders: Mark Slater and Paul Stancil
Buyer/Applicant: DEH, LLC
Members: Douglas and Ellen Hamm

Before the Commission is a request for a transfer of ownership of the retail store located at 5987 B Brainerd Road in Chattanooga, Tennessee. Douglas and Ellen Hamm intend to initially invest \$187,650 in the business, of which \$57,659 is for existing inventory. Financing is based upon the following: \$100,000 in a home equity loan; \$15,000 in personal funds; and the balance is seller financing. If approved, the business would be conducted as a LLC. The LLC is leasing the property from the Strafford Partnership Chattanooga, TN for a period of three years at \$2500.00 per month. All documentation has been submitted with the exception of the following:

- a. List of partners in Stafford Partnership (landlord);
- b. Statement from Paul Stancil acknowledging the sale of the business.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that all documentation has been submitted and recommended approval. Chairman Jones made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

**B. WHISKERS WINE AND SPIRITS
CORDOVA, TENNESSEE (SHELBY COUNTY)**

Applicant: Glenco Enterprises, Inc.
Members: Glenda Kilpatrick, Deborah Pate, Deborah Couch

Before the Commission is a request for a new retail store to be located at 1323 N. Germantown Parkway in Cordova, Tennessee. Glenda Kilpatrick, Deborah Pate, and Deborah Couch intend to initially invest approximately \$50,000 each to operate the business. Financing is based upon personal funds and home equity lines of credit. If approved, the business will be operated as a corporation, with Glenda Kilpatrick owning

34%, and Ms. Pate and Ms. Couch each owning 33%. Cordova Village, LLC is leasing the property to the applicant for a five year term—initially, the rent is \$2700/month, and ultimately increasing to \$3290/month. All documentation has been submitted with the exception of the following:

- a. Sales tax number;
- b. Use and occupancy permit;
- c. TABC Inspection;
- d. Acknowledgment of the rules and regulations;
- e. Personal financial statement of Deborah Couch; and
- f. Agent report.

Discussion/Action Taken:

Glenda Kilpatrick and Deborah Couch were present at the meeting. Director Elks reviewed the application to the Commission and stated that she recommended approval upon submission of the documentation listed below: Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

- a. Sales tax number;
- b. Use and occupancy permit;
- c. TABC Inspection;
- d. Acknowledgment of the rules and regulations.

**C. FARRAGUT WINE AND SPIRITS
FARRAGUT, TENNESSEE (KNOX COUNTY)**

Applicant: Farragut Wine and Spirits, LLC
Members: David Purvis and Hugh Kaserman

Before the Commission is a request for a new retail store to be located at 11238 Kingston Pike, in Farragut, Tennessee. Mr. David Purvis and Mr. Hugh Kaserman intend to invest approximately \$750,000 to operate the business. Financing is based upon the following: (a) Purvis: \$100,000 loan with step-father, Kenneth Vonn; (b) Kaserman: \$10,000 gift from parents; \$10,000 in personal funds; and \$80,000 loan with First Tennessee Bank (with parents as co-signors). The LLC has an additional loan for the remaining \$550,000 with Mountain Commerce Bank. The LLC is sub-leasing the property from Cox and Cox Realty—which is owned by Thad Cox, Sr. and Jr*.—for a period of three years at \$8040.62/month. All documentation has been submitted with the exception of the following:

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- a. Copy of loan with Mountain Commerce Bank;
- b. Financial and bank check on Kenneth Vonn;
- c. Amended certificate of compliance reflecting applicant individual names;
- d. Use and Occupancy permit;
- e. Questionnaire for Fred and Edith Kaserman as co-signers on loan;
- f. Affidavit Kaserman no longer works at Cedar Bluff Liquors; and
- g. Agent report.

*Thad Cox, Jr. is a licensee. An investigation is pending to determine Thad Cox, Sr's interest in family's store.

Discussion/Action Taken:

Joe Huffaber, Attorney, was present at the meeting. Director Elks reviewed the application to the Commission and stated that she recommended approval upon submission of the following documentation:

- a. Financial and bank check on Kenneth Vonn;
- b. Use and Occupancy permit;
- c. Affidavits from Mr. David Purvis and Mr. Kaserman that the Cox family are not related directly or indirectly to the operation of this business but for the landlord capacity;
- d. Agent report.

Chairman Jones stated that as the East Tennessee member of the Tennessee Alcoholic Beverage Commission that he has received numerous phone calls from Knoxville citizens related to complaints, criticism, or questions asking why two families own all the liquor stores in Knoxville. Chairman Jones stated it has been an on-going concern of this Commission. He further stated, that although an investigation has been conducted related to the Cox Corporation leasing the property, a former employee of a Cox family store being a current stockholder has been satisfactorily resolved; this "pushes him as far as he wants to go." Chairman Jones stated that he does not feel comfortable with the situation in Knoxville. He believes that the TABC staff is in control of the situation, however, he has fears that it will come to surface again. Chairman Jones stated that there is some potential for someone staying in a business and waiting until ribbon-cutting and walking in and unlocking the door and doing business as a new company. Chairman Jones stated that he wanted to state that for the record. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

Director Elks stated that the staff had several meetings with the Cox family related to the operation of the business in conjunction with this investigation and the problem influences have been resolved. All parties have been educated as to what, if any, influences may exist.

**D. RIDGEWAY LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Kyle Alexander

Before the Commission is a request for a new retail store to be located at 6205 Mt. Moriah Ext. in Memphis, Tennessee. If approved, Mr. Kyle Alexander intends to initially invest \$135,000 in the business, and will operate the store as a sole proprietorship. Financing is based upon personal funds. He is leasing the property from Loeb Realty Company for a period of 5 years at \$3285/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit; and
- c. Acknowledgement of the rules and regulations.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission. Director Elks recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Use and Occupancy permit; and
- c. Acknowledgement of the rules and regulations.

Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**E. RIVERVIEW LIQUORS
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Applicant: Riverview Wine and Spirits, LLC

Members: Ravi Talwar and Jayesh Patel

Before the Commission is a request for a new retail store to be located at 1101 Hixson Pike, Suite A, in Chattanooga, Tennessee. If approved, the members, Ravi Talwar and Jayesh Patel, intend to operate the business as a LLC. They intend to initially invest \$300,000 in the business. Financing is based upon a loan with Capital Mark Bank. The applicant is leasing the property from Talwar Property, LLC for a period of three years at \$3500/month. All documentation has been submitted with the exception of the following:

- a. Sub-lease or amend lease to reflect the LLC as the lessee.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that she recommended approval upon submission of the sub-lease or amend lease to reflect the LLC as the lessee. Chairman Jones made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**F. A-Z LIQUORS
LAWRENCEBURG, TENNESSEE (LAWRENCE COUNTY)**

Applicant: Deborah Hill

Before the Commission is a request for a new retail store to be located at 117 Weakley Creek Road, in Lawrenceburg, Tennessee. Ms. Deborah Hill intends to initially invest \$300,000. Financing is based upon personal funds. Ms. Hill and her husband own the property where the business will be located. All documentation has been submitted with the exception of the following:

- a. TABC Inspection and report;
- b. Use and Occupancy permit;
- c. Acknowledgement of the rules and regulations; and
- d. Lease to Debbie Hill.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that she recommended approval upon submission of the following documentation:

- a. TABC Inspection and report;
- b. Use and Occupancy permit;
- c. Acknowledgement of the rules and regulations

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**G. J.T. LIQUORS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Seller/Licensee: Meselech Terese Aga

Applicant: Brosis, Inc.

Stockholders: Niketa Patel and Taraben Patel

Before the Commission is a request for a transfer of ownership of the store located at 2723 Murfreesboro Road in Nashville, Tennessee. Niketa Patel and Taraben Patel intend to initially invest approximately \$110,000 to operate the business. If approved, they could operate the business as a corporation. Financing is based upon the sale of another business. The corporation is leasing the property from Samco Partnership for four years, \$2476/month. If approved, Niketa Patel will own 80%, and Teraben Patel will own 20%. All documentation has been submitted with the exception of the following:

- a. Bill of Sale for Donut Connection and verification of deposit;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that she would recommend approval upon submission of the following documentation:

- a. Bill of Sale for Donut Connection and verification of deposit;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations.

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**H. LIQUOR AND WINE DEPOT
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Gregory Cross

Before the Commission is a request for a new retail store to be located at 756-758 Mt. Moriah Road in Memphis, Tennessee. Mr. Gregory Cross, if approved, will operate the business as a sole proprietorship. He intends to initially invest \$250,000 in the business. Financing is based upon a loan with Regions Bank. Mr. Cross is leasing the property from Malkin Management and Investment Company for a period of 5 years for \$3625/month. All documentation has been submitted with the exception of the following:

- a. Copy of loan agreement with Regions Bank;
- b. TABC Inspection and report;
- c. Use and Occupancy permit;
- d. Lease from Samuels to Malkin Management;
- e. Affidavit from family members they have no interest in business, and verification of stores they are involved; and

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and requested a continuance to the September Commission meeting until the financing can be resolved and the agent has completed his investigation. Commissioner Bond made a motion to continue the matter to the September meeting. Commissioner Mathews seconded the motion and it passed with 3 ayes.

3. WINERIES

The TABC has received emergency notification from Commissioner Ken Givens, Department of Agriculture, that due to the freeze conditions in April, 2007, and subsequent drought conditions, approximately 80% of the grape and fruit crop has been lost for this year. The Department of Agriculture has confirmed the non-existence or non-availability of the following grapes and fruits:

Grapes: Alwood, Baco Noir, Cabernet, Cabernet Franc, Cabernet Sauvignon, Campbell's Early, Catawba, Cayuga, Chambourcin, Chancellor, Ghardonelle, Chardonnay, Concord, Cynthiana, De Chaunac, Edelweiss, Elvira, Foch, Fredonia, Gewurztraminer, golden Muscat, Ives, Kaye Gray, Martha, Merlot, Muscadine, Niagara, Petite Verdot, Pinot Gris, Riesling, Rogeon, Sauvignon Blanc, Seyval Blanc, Shiraz, Steuben, Sunbelt, Syrah, Traminette, Vidal, Viognier, Zinfandel.

Fruit: Apple, Blackberry, Blueberry Cherries, Honey, Peach, Raspberry, Rhubarb, and Strawberries.

Due to the emergency situation, TABC staff has approved the following J-6 Waivers:

A. Sumner Crest Winery (Portland, Tennessee) Supplement

Steuben (550 gallons).

Discussion/Action Taken:

Director Elks advised the Commission that emergency J-6 Waivers were approved at the June Commission meeting. Director Elks stated that pursuant to the circumstances surrounding the earlier freeze that destroyed a lot of the grape and fruit crop, the Commission gave the staff permission to approve J-6 Waivers as they came into the office. Director Elks stated the winery's additional J-6 Waiver for Steuben was approved by the staff. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

New Winery:

**CHESTNUT HILL WINERY
CROSSVILLE, TENNESSEE (CUMBERLAND COUNTY)**

Applicant: Chestnut Hill Winery, LLC

Members: Harold Stryker, Nancy Stryker; Trudi Stryker, and
Darrin Stryker

Before the Commission is a request for a new winery to be located at 78 Chestnut Hill Road in Crossville, Tennessee. If approved, the business will operate as a LLC. The Strykers intend to initially invest \$250,000 each, for a total investment of \$1,000,000: each would own 25%. Financing is based upon a loan with Progressive Bank. The applicant has purchased the property from Sally Bolin and Neal Givens for \$1,050,000. All documentation has been submitted with the exception of the following:

- a. Loan Agreement;
- b. TABC Inspection;
- c. Acknowledgment of the rules/regulations;
- d. Financial checks on applicants.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission. Director Elks recommended approval upon submission of the following documentation:

- a. Loan Agreement;
- b. TABC Inspection;
- c. Acknowledgment of the rules/regulations;
- d. Financial checks on applicants.

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

4. ADMINISTRATIVE CITATIONS

A. Kimberly Renea Mackens

On July 25, 2007, TABC Agent Debra Warren observed Kimberly Mackens serve an alcoholic beverage to a 19-year old confidential informant at O'Charleys Restaurant in Clarksville. Ms. Mackens checked the minor's identification indicating he was under-aged, but served the minor an alcoholic beverage. An administrative citation was issued, and remains outstanding.

Discussion/Action Taken:

Kimberly Renea Mackens was present at the meeting. SA Debra Warren testified that on July 25, 2007 SA Allison and she were in Clarksville with a confidential informant to do a minor compliance investigation. SA Warren testified that at approximately 2:45 p.m. that they sent the 19 year old confidential informant into O'Charley's in Clarksville. SA Warren testified that the informant went to the bar where Ms. Mackens was the bartender. He ordered a rum and coke from Ms. Mackens. Ms. Mackens asked to see his ID. The informant showed his true driver's license with a DOB of 1988. Ms. Mackens looked at the informant's driver's license, handed it back to the informant and fixed him a rum and coke and served it to him. The informant then got up from his bar stool and left the premises. SA Warren then approached Ms. Kimberly Mackens. Assistant Director Carolyn Smith requested that the Commission uphold the \$250 fine. Commissioner Bond made a motion to uphold the \$250 fine. Commissioner Mathews seconded the motion and it passed with 3 ayes.

B. Erica Marie Cyr

On July 25, 2007, TABC Agent Brad Allison observed Erica Cyr serve an alcoholic beverage to a 19-year old confidential informant at The Front Page Deli Restaurant in Clarksville. Ms. Cyr checked the minor's identification indicating he was under-aged, but served the minor an alcoholic beverage. An administrative citation was issued, and remains outstanding.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that Erica Marie Cyr has paid the administrative citation; so therefore, no action is necessary.

5. SERVER PERMITS

A. JESSICA WOODARD

On or about June 7, 2007, TABC staff denied Ms. Jessica Woodard's application for a server permit. A review of the application indicated that Ms. Woodard was convicted of the sale of alcoholic beverages to a minor in December, 2004. T.C.A. 57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of a charge involving the sale of alcoholic beverages for a period of eight years prior to the date of the application. Ms. Woodard has requested a hearing regarding the denial of her server permit application.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that Jessica Woodard was not present. Commissioner Mathews made a motion to uphold the denial of the server permit application. Commissioner Bond seconded the motion and it passed with 3 ayes.

- 6. BUDGET** - Director Elks stated that there has been an over collection in the Budget of approximately \$250,000 to \$300,000.
- 7. CONSENT ORDERS**
- 8. PENDING MATTERS LIST**
- 9. MISCELLANEOUS**
- 10. DATE OF NEXT MEETING** – September 27 and October 19, 2007 at 1:30 p.m.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman